

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JAMES DANIEL MCCRACKEN,

Plaintiff,

v.

UNKNOWN THOMAS,

Defendant.

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CASE NO. 4:06CV3191

MEMORANDUM AND ORDER

This matter is before the court on plaintiff's Motion to Amend his Complaint (Filing No. 10) and his Motion to Extend Time to Pay the Initial Partial Filing Fee. (Filing No. 11).

In his motion plaintiff asks this court to amend his complaint to state that he is suing Dr. Thomas in his individual capacity. Further, plaintiff moves to amend his complaint to include additional defendants including US Marshals in their individual capacity. Plaintiff's motion is granted. Plaintiff shall have leave to file an amended and restated complaint fully stating claims and parties and capacities with which he wishes to sue parties by **October 27, 2006**.

The court's records show that as of September 7, 2006, plaintiff's initial partial filing fee has been paid. Therefore, his motion to extend time is denied as moot.

IT IS ORDERED:

1. Plaintiff's Motion to Amend his Complaint (Filing No. 10) is granted. Plaintiff will have until **October 27, 2006** to file with the court an amended and restated complaint.

2. Plaintiff's Motion to Extend Time to Pay the Initial Partial Filing Fee (Filing No. 11) is denied as moot.

DATED this 11th day of September, 2006.

BY THE COURT:

s/ F.A. Gossett
United States Magistrate Judge